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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

28 OCT 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Dan Miller
House of Representatives
510 Cannon House Office Building
Washington, D.C. 20515

93-253

Dear Congressman Miller:

This in reply to your letter of September 30, 1993, on behalf of your constituent, Ms. Carolyn Ostyn. Ms. Ostyn is concerned about the impact of recent legislation on the Cellular Radio Service and the Interactive Video and Data Service (IVDS). Your letter was referred to me because the Office of Plans and Policy is responsible for implementing the competitive bidding provisions of the Budget Act.

On August 10, 1993, President Clinton signed the Omnibus Budget Reconciliation Act of 1993 (Budget Act). The Budget Act affected the Commission by, among other things, limiting the Commission's lottery authority and granting the Commission authority to conduct auctions of the spectrum (competitive bidding). Further, the Budget Act provides the Commission with the option to subject radio service applications that were accepted for filing prior to July 26, 1993, to either lottery or competitive bidding. With this in mind, the Commission conducted a lottery on September 15, 1993, for the first nine IVDS service areas because all of the IVDS applications were accepted for filing prior to July 26, 1993.

In addition, the Budget Act, signed August 10, 1993, provided the Commission with 210 days from its date of enactment, or March 8, 1994, to issue final rules concerning competitive bidding. Accordingly, on September 23, 1993, the Commission initiated a rule making proceeding to implement the competitive bidding provisions of the Budget Act. Notice of Proposed Rule Making (Notice), PP Docket 93-253 (adopted September 23, 1993, released October 12, 1993). The Notice proposed, among other things, to subject cellular radio applications for unserved areas and future IVDS applications to competitive bidding. In addition, the Commission proposed certain investment incentives, such as installment payment plans with interest, for small businesses and other entities designated by the Budget Act in order to ensure their economic opportunity under a system of competitive bidding. The public, including your constituents, are invited to submit comments to this proceeding by November 10, 1993, and reply comments by November 24, 1993. I can assure you that the Commission will give full consideration to all comments filed in the competitive bidding rule making proceeding.

Sincerely,

Robert Pepper
Chief
Office of Plans and Policy

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List A B C D E

DAN MILLER
13TH DISTRICT, FLORIDA

COMMITTEE ON
BUDGET

COMMITTEE ON
EDUCATION AND
LABOR

MINORITY LEADER'S
Task Force on Health

Congress of the United States
House of Representatives
Washington, DC 20515-0913

September 30, 1993

*Opp
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813 AREA CODE)

Mr. Charles Gratch
FCC
1919 M Street, NW
Washington, DC 20554

Dear Mr. Gratch:


I am writing to you on behalf of my constituent, Ms. Carolyn Ostyn.

She is concerned with a provision included in the Omnibus Budget Reconciliation Act which authorizes the Federal Communication Commission (FCC) to auction licenses for use of the public radio spectrum instead of using the lottery system.

Two years ago, Ms. Ostyn invested thousands of dollars in administrative paperwork requirements to prepare and submit an application for a license to provide cellular mobile telephone service. She invested money on the assumption that she could compete for the spectrum by lottery.

I would appreciate hearing your thoughts on Ms. Ostyn's situation. Thank you for your time and consideration to this matter.

Sincerely,



Dan Miller
Member of Congress

DM:aw

CM. SPECTRUM

THE HONORABLE DAN MILLER
U.S. HOUSE
WASHINGTON, D.C.

AUG 24 1993

DI 7542

DEAR REPRESENTATIVE MILLER,

AS A SMALL BUSINESSPERSON, I REQUEST YOUR IMMEDIATE HELP
ON AN FCC QUESTION WHICH WILL BE DECIDED IN THE SENATE BUDGET
RECONCILIATION CONFERENCE.

TWO YEARS AGO, THE FEDERAL COMMUNICATIONS COMMISSION
INVITED APPLICANTS TO COMPETE BY LOTTERY FOR NEW LICENSES FOR
CELLULAR "UNSERVED AREA" MOBILE TELEPHONE SERVICE.

EXCITED BY THE POSSIBILITIES FOR THIS NEW SERVICE, I
HAVE INVESTED THOUSANDS OF DOLLARS IN ADMINISTRATIVE
PAPERWORK REQUIREMENTS TO PREPARE AND SUBMIT MY LICENSE
APPLICATION TO THE COMMISSION.

THIS WAS AN ESPECIALLY ENCOURAGING OPPORTUNITY.
ALTHOUGH "UNSERVED CELLULAR SERVICE AREA" IS A NICHE MARKET,
IT USES ADVANCED WIRELESS TECHNOLOGY AND REPRESENTS AN
IMPORTANT WAY TO PROMOTE COMPETITION WITHIN THE CELLULAR
INDUSTRY AND OTHER MAJOR TELECOMMUNICATIONS PLAYERS. THE FCC
SET UP THE CELLULAR UNSERVED AREA RULES SO SMALLER AND
MINORITY ENTREPRENEURS, LIKE ME, COULD PARTICIPATE IN THE
BUSINESS. FCC RULES NOW STRICTLY PREVENT SPECULATION AND
TRAFFICKING SO ONLY SERIOUS APPLICANTS WILL BE ENCOURAGED.

NOW, UNFORTUNATELY, THE RULES ARE BEING CHANGED IN
MIDSTREAM AND I BELIEVE INADVERTENTLY. UNDER THE HOUSE AND
SENATE BUDGET BILLS, THE LOTTERIES FOR THESE LICENSES WOULD

BE OVERTURNED IN FAVOR OF AN AUCTION SCHEME. THERE WERE NO PUBLIC HEARINGS, NO OPPORTUNITY TO ACCURATELY WEIGH THE BUDGET IMPLICATIONS NOR TO CONSIDER THE DIRE OUTCOMES FOR APPLICANTS. THE FCC CHAIRMAN HAS ALSO CONTACTED THE CONGRESSIONAL LEADERSHIP TO EXPRESS THE COMMISSION'S CONCERN WITH THE CHANGES IN THESE RULES.

THE BUDGET RECONCILIATION BILL MUST ENABLE THE FCC TO CONTINUE WITH THE PROPOSED LOTTERY PLAN. FAILING TO DO SO THE PUBLIC INTEREST IS TRULY HARMED:

INDIVIDUALS WILL HAVE THEIR APPLICATIONS NEEDLESSLY VOIDED AND LOSE THOUSANDS OF DOLLARS INVESTED IN PREPARING OUR APPLICATIONS, AND CELLULAR SERVICE TO THESE UNSERVED AREAS WILL BE DELAYED -- PERHAPS STALLED PERMANENTLY -- IN THIS NEW TECHNOLOGY AND IN PROMOTING COMPETITION AMONG SMALL BUSINESSES, RATHER THAN PERMITTING LARGE MEDIA COMPANIES AND OTHER MAJOR TELECOMMUNICATIONS FIRMS TO SEIZE THESE LICENSES BY AUCTION.

IMPORTANT FOR YOU TO KNOW, TOO, IS THAT KEEPING THE RULES AS THEY ARE WILL NOT IMPACT THE FEDERAL BUDGET IN ANY MEANINGFUL WAY. THE POTENTIAL REVENUE FROM AUCTIONING CELLULAR UNSERVED AREA LICENSES, I UNDERSTAND, WILL BE SO SMALL AND LIKELY TO BE NO MORE THAN THE FCC CAN RAISE BY CONTINUING TO CHARGE APPLICATION FEES AS IT HAS DONE.

THIS IS A MISTAKE WE CAN CORRECT IF YOU WILL HELP NOW.

SENATORS DAN INOUE AND CHAIRMAN FRITZ HOLLINGS, LEADERS

OF THE SENATE COMMERCE COMMITTEE, AND CONGRESSMAN ED MARKEY
AND CHAIRMAN JOHN DINGELL ON THE HOUSE ENERGY AND COMMERCE
COMMITTEE ARE CONSIDERING STEPS TO REMEDY THIS ISSUE IN THE
HOUSE-SENATE CONFERENCE. I ASK THAT YOU IMMEDIATELY CONTACT
THESE MEMBERS TO GIVE THEM YOUR SUPPORT, AND TO URGE THE
CONFERENCE TO RESTORE THE FCC AUTHORITY OVER IVDS LOTTERIES.

THANK YOU VERY MUCH FOR YOUR CONSIDERATION AND SUPPORT.
I HOPE YOU WILL NOT HESITATE TO CONTACT ME PERSONALLY BY
CALLING 613-493-5814 IF I CAN PROVIDE ANY MORE INFORMATION OR
ANSWER ANY QUESTIONS.

SINCERELY,

Carolyn Osty